

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
)  
Amendment of Section 73.606(b), ) MM Docket No. 01-82  
Table of Allotments, ) RM-10068  
Television Broadcast Stations. )  
(Bend, Oregon) )

**REPORT AND ORDER**  
**(Proceeding Terminated)**

**Adopted: February 25, 2004**

**Released: March 5, 2004**

By the Chief, Video Division:

1. At the request of 3-J Broadcasting Company ("3-J"), the Commission has before it the Notice of Proposed Rule Making, 16 FCC Rcd 7791 (2201), proposing the allotment of channel 51 to Bend, Oregon. 3-J and Bend Licenses, LP ("Bend Licenses")<sup>1</sup> filed comments. 3-J and WatchTV, Inc. filed reply comments.<sup>2</sup>

2. Bend Licenses opposes the allotment of channel 51 because it believes the new allotment will not provide adequate contour protection to Class A station KOXO-CA, channel 51, Newburg, Oregon. Bend Licenses submits that television channel 51 contour overlap would totally encompass station KOXO-CA service area. Bend Licenses also states that the grant of 3-J's channel allotment constitutes an inefficient use of the broadcast spectrum. Specifically, it argues that the benefits derived from an analog television allotment at Bend are short-lived since analog broadcast licenses cannot be renewed beyond December 31, 2006. Furthermore, Bend Licenses maintains that numerous LPTV/TV Translator stations will be displaced by the use of channel 51, many of which will be unable to relocate to a suitable replacement channel due to spectrum congestion.<sup>3</sup>

3. In response, 3-J contends that there is no prohibited interference to KOXO-CA. It argues

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<sup>1</sup> Bend Licenses is the licensee of television station KTVA-TV, Bend, Oregon

<sup>2</sup> WatchTV, Inc. is the licensee of Class A station KOXO-CA, Newburg, Oregon. WatchTV filed opposing reply comments stating it objects to the new channel because it will cause interference to station KOXO-CA. WatchTV filed reply comments but no initial comments. We consider WatchTV's comments untimely since they raise matters that should have been filed during the initial comment period. See Section 1.415(c) of the Commission's Rules. Nevertheless, the alleged interference claim submitted by WatchTV was also raised by Bend Licenses and will be addressed.

<sup>3</sup> Bend Licenses provided a list of LPTV stations that potentially will be displaced by the grant of 3-J's proposal, assuming the facility employs 5000 kW at the KTVZ site. The list include stations located in Eugene, London Springs, Roseburg, Milton, Cave Junction, The Dallas, Prineville, Terrebonne, Madras, Black Butte Ranch, and Bend

that extreme terrain shielding exists between Bend and Newburg because of the Cascade Mountains. 3-J also maintains that the licensee of channel 51 will operate with reduced power and a directional antenna due to the proximity of the Deschutes National Forest and the Cascade Mountains. It argues that, because of the terrain shielding effects, some of the co-channel 51 LPTV stations located in Eugene, London Springs, Roseburg, Cave Junction, Miton-Freewater and The Dalles will not be subject to interference.<sup>4</sup> In any event, 3-J states that the Commission decided that LPTV and translator stations are secondary in nature, and will not be allowed to prevent the initiation of new full-power television service. 3-J submits that Bend is a growing community with a population of 52,029 persons, which would benefit from the addition of a new commercial television service.

## **DISCUSSION**

4. As a threshold matter, we find that the public interest will be served by allotting channel 51 to Bend, Oregon. As 3-J notes, Bend is growing community with two noncommercial television allotments and only one local commercial television service. We have reviewed the issues raised by Bend Licenses and found no basis for denying the proposal. First, with respect, to interference to Class A station KOXO-CA, Newburg, Oregon, our technical analysis finds no contour encompassment or potential for interference. The communities of Bend and Newburg are almost 200 miles apart and separated by the Cascade Mountains; a fact not disputed by Bend Licenses. The extreme terrain shielding that exists between Bend and Newburg assuages any concerns about protection of KOXO-CA. In fact, our independent engineer evaluation supports the conclusion that the terrain-limited contours of KOXO-CA as proposed, with the 200 kW facilities with directional antenna, would not overlap. In addition, we find the displacement issues raised regarding LPTV/translators stations are without merit. These stations are not full service facilities, but rather secondary services, and, as such, are not entitled to interference protection.<sup>5</sup>

5. Finally, Bend Licenses argument that the benefits derived from an analog television allotment at Bend are short-lived since analog licenses cannot be renewed beyond December 31, 2006, does not bar the proposed allotment. The Commission has clearly stated that non-paired analog licensees will be allowed to "flash-cut" to digital in 2006 on their assigned allotments or on such other channels that may be available after paired licensees make their final DTV channel election.

## **TECHNICAL**

6. We believe the public interest would be served by allotting channel 51 to Bend, Oregon,

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<sup>4</sup> 3-J notes that three LPTV applications tendered on channel 51 for Bend and Black Butte Ranch will be displaced by the grant of 3-J's proposal because of their close proximity to Bend, Oregon.

<sup>5</sup> See *Establishment of a Class A Television Service*, 15 FCC Rcd 6355 (2000), See also, *Sixth Report and Order; Advance Television Systems and Their Impact Upon the Existing Television Broadcast Service*, *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, 13 FCC Rcd 7418 (1998) ("MO&O Sixth Report and Order").

since it would provide the community with its second local commercial TV service. A staff engineering analysis indicates that channel 51 can be allotted to Bend with a zero offset in compliance with the minimum distance separation requirements of Sections 73.610 and 73.698 of the Commission Rules. The coordinates for channel 51 at Bend are North Latitude 33-03-30 and West Longitude 121-18-30.

7. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective April 19, 2004, the TV Table of Allotments, Section 73.606(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Bend, Oregon	*3+, *15, 21+, 51

8. A separate *Order* will be issued announcing the window period for filing applications for TV channel 51 at Bend, Oregon.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Pam Blumenthal, Media Bureau, (202) 418-1600.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau